

**Martin County Coal Slurry Spill Community Teleconference Call
July 8, 2004 – 12:00 p.m. to 2:00 p.m.**

Purpose

To provide the public with an update on stream restoration and monitoring activities currently taking place on streams impacted by Martin County Coal Corporation's October 11, 2000 coal slurry spill, as well as provide an opportunity for public comment on these activities.

Participants

Facilitator

- Leslie Cole, Director, Ky. Environmental Quality Commission, Frankfort, KY.

U. S. Environmental Protection Agency, Region 4, Atlanta

- Stephanie Fulton, Wetlands Regulatory Section
- Tom Welborn, Chief; Wetlands, Coastal and Watersheds Branch
- Mickey Feltus, Wetlands Regulatory Section
- Chris Thomas, Chief, Drinking Water Section
- George Ford, Ground Water and Underground Injection Control Section
- Robert Olive, Ground Water and Underground Injection Control Section
- Ronald Mikulak, Chief, Wetlands Regulatory Section
- Brian Holtzclaw, Superfund Program
- Phillip Mancusi-Ungaro, Office of Water Legal Support

Agency for Toxic Substances and Disease Registry, Atlanta

- Dr. Frank Schell, Exposure Investigation, Consultation Branch
- Donald Joe, Deputy Branch Chief Exposure Investigation
- Robert Safay, Senior Regional Advisor, Region IV

Ky. Division of Water/Department for Environmental Protection

- John Dovak, Water Quality Branch
- Greg Pond, Water Quality Branch
- Tom Skaggs, Drinking Water Branch
- Pete Goodman, Groundwater Branch
- Larry Taylor, Dept. for Environmental Protection, Commissioner's Office

Public

- Representative Hubert Collins
- Stephanie McSpirit, Eastern Ky. University
- Nina McCoy, Martin Co. resident
- Patty Wallace, Environmental Quality Commission
- Tom FitzGerald, Ky. Resources Council
- Amanda Moore, Staff Attorney, Appalachian Citizens Law Center

- Dr. Melissa Dieckmann, Eastern Ky. Univ.
- Mick Harrison, Ky. Environmental Foundation
- Judy Petersen, Ky. Waterways Alliance
- Don Bowles
- Lindell Ormsbee, Ky. Water Resources Inst.

Water Quality Overview – Stephanie Fulton, EPA

- Monitoring of coal spill in the Tug River has been discontinued.
- Other monitoring activities are ongoing. Waterways are degraded from past and current coal mining in the region. Makes it difficult to determine which impacts are from spill and which ones are from previous and ongoing mining activities.
- Numerous reports on the water quality of impacted streams/rivers have been received from Martin County Coal contractors including water chemistry, sediment and habitat characterization, and fish and benthic macroinvertebrate studies.
- Elevated levels of certain mining-related parameters have been recorded but are below surface water quality standards.
- Decreasing trends in certain mining-related water quality parameters have been observed on Wolf Creek. Life is coming back on Coldwater Creek. Monitoring on both creeks is ongoing.
- Water quality monitoring studies currently being performed in streams impacted by the spill assess the condition and ongoing recovery of these streams by comparing the individual monitoring results to the Commonwealth of Kentucky's water quality standards that support the highest (i.e., most protective) existing designated uses of each affected stream. The highest designated use of the smaller impacted headwater streams protect warm water aquatic life. The specific designated uses for each impacted stream/river are provided in each Assessment Report.
- Slurry mobility study to be out soon to report on amount of slurry left, and the potential for it to become re-mobilized, in the environment.
- EPA encourages public to read reports and submit comments.
- All reports are available at the repository in Inez at City Hall.

Questions/Concerns/Comments

- No knowledge of repository by conference call participants - how are materials organized at repository?
Response. The reports have been submitted to the repository as they are prepared. It is assumed they are therefore organized chronologically. EPA has requested that the Mayor of Inez report back to EPA on the status and organization of materials in the repository- EPA
- Reports hard to understand by lay public – Nina McCoy.
Response - Reports are straightforward and should be understandable by public, These reports and the repository contain all the information that the U.S. EPA has. – EPA.
Response. Reports are technically driven due to the nature of the spill but are written in a straightforward manner. While the information may not be easy to

- understand we welcome public comments on how to improve the readability of the reports – EPA.
- Decision to enforce under Clean Water Act versus Superfund resulted in no opportunity for public involvement and participation - Stephanie McSpirit.
Response. Enforcement under Clean Water Act provides for removal of the slurry and long-term restoration to a functioning system – a response through the Superfund Program would not have provided the same opportunities – EPA.
Response. Slurry is not considered a hazardous substance since it did not constitute a release under CERCLA; it was a release of dredged or fill material under the Clean Water Act. It is EPA's belief that because the slurry was diluted after release by a large volume of water it is not a CERCLA release. It is concentrated in slurry but not in the stream/system. Even the slurry sampled did not have high enough concentrations to constitute a release of a hazardous substance. EPA thought CWA would be a better method of cleaning and restoring the system than CERCLA - EPA
 - Impact of current flooding on sludge – Rep. Collins.
Response. Systems will continue to flush – this should help stream recovery - EPA.
 - What are the decreasing trends observed – Mick Harrison
Response. Trend is aquatic life coming back – slurry had the initial effect of smothering. The information is contained in reports sent to the repository in Inez – EPA.
 - The slurry is still in the environment – Patty Wallace
Response. Used our best judgment on how much to remove without further impacting the environment – EPA
 - Is it EPA's official stance that sludge has no toxic materials? – Nina McCoy.
Response. Not prepared to answer that question. Based on testing of the spill, EPA determined that the slurry spill was not a release of a hazardous substance.
 - Toxicity of slurry – what parameters are measured – need for a combined impact assessment - Mick Harrison
Response. Parameters tested for are listed in the reports at repository in Inez. Includes list of 33 chemicals such as cadmium, lead, etc.
 - What parameters were elevated – Mick Harrison.
Response. Do not have that information at hand but it is included in the reports - EPA
 - How often does EPA visit site - ground truth information – Leslie Cole
Response. Two site visits in the past year because one project manager to cover two states and we have limited resources – since this is a long term project and changes do not happen quickly, it is important to visit the site strategically – EPA.
Response. State does do some of their own sampling - DOW
 - When will restoration be considered complete – what criteria will be used since restoration was not specifically defined.– T. FitzGerald
Response. This information is in the restoration plan – EPA.
Response. End points and criteria specified in state agreed order – to be complete by 2007 – DOW

- Underground injection of slurry by Martin County Coal – was it done lawfully – Tom FitzGerald
Response. Earlier injection done prior to law. Since UIC law, a federal permit is needed – UIC/EPA
- Drinking water key public concern. Pumping water from Tug Fork into reservoir. Drinking water violations are being reported to citizens. 75% refuse to drink water - Nina McCoy.
Response. Compliance records show no turbidity violations – plant has filtering system – EPA.
Response – There have been problems with monitoring and reporting violations. Also problem with plant operation and maintenance such as filter treatment problems – DOW.

Stream Restoration Overview – John Dovak, Kentucky Division of Water

- Nov. 2003 approved the restoration plan for approximately a one mile section of Upper Middle Coldwater Fork – this plan will serve as model for the rest of the restoration work.
- Construction began in Dec. 2004 – the construction is mostly complete at this time, excluding ongoing repairs due to damage from storms.
- Rebuilt natural channel using sound fluvial geomorphology design principles.
- Several flood events, design stood up well.
- Reviewed work on ground in May 2004.
- EPA and DOW expect to receive additional restoration plans in the near future for additional stream segments of Coldwater Fork and Wolf Creek. Permitting and construction are expected to begin this summer/fall.

Questions/Concerns/Comments

- Concern is more with drinking water quality – Nina McCoy.
- Status of private water wells – Leslie Cole
Response. Water wells were tested after spill, no contamination problems found related to spill - DOW

Public Health Overview – Tom Safay, ATSDR

- April 2003 issued draft health report – concluded no health threat.
- Sept. 2003 held public meeting – community provided comments.
- In process of addressing comments – do not have resources/staff to bring to final.
- Not regulatory agency - only look at available data - depend on state and EPA for data - try to give public best scientific evidence.

Questions/Concerns/Comments

- Will there be a response to citizen concerns submitted to ATSDR in 2003 – Stephanie McSpirit
Response. Eventually, all comments will be addressed – project manager left - currently sites of higher priority – only 5 staff for region – ATSDR

General Discussion and Summary of Needs

- Public Participation – Need for more meaningful involvement – Citizen advisory committee – conference call helpful but need face-to-face public meetings. EPA also stated that the community could still benefit from a Community Advisory Group (CAG) format (citing the website for the CAG toolkit, which can be found at <http://www.epa.gov/superfund/tools/cag/resource.htm>) - Due to a lack of resources, EPA could only provide limited support in helping the community form a CAG, if they wanted to.
- Drinking Water – Concern about quality and health impacts on children – Martin County Coal should help finance new or upgrade drinking water system or be required to do so by EPA and state.
- Technical Assistance – Citizens stated they need independent technical assistance to understand reports and conduct independent testing - Superfund Technical Assistance Grants (TAGs) not available, because of ineligibility - Martin County Coal expressed no interest in funding an equivalent mechanism, called TAPs (Technical Assistance Project, an added clause within an Enforcement Order, which calls for companies funding technical assistance) per EPA requests in 2001 and 2002 - EPA noted that these have been used in other Administrative Orders before, citing a community in South Carolina, which received three TAPs, worth \$75k - EPA recently referred the impacted community and ECU to a forwarded e-mail which outlined a new federal grant from NIEHS/NIOSH, "Environmental Justice Partnerships in Communication grant," worth \$225k over 4 years (letter of intent due in October, proposal due in November) - EPA also cited an informal directory of potential foundations that may fund grants to help the community, this directory was given in the past to the repository and notably the former Mayor of Inez - EPA also stated that it is still unknown whether the EPA Office of Environmental Justice (EJ)'s "EJ Collaborative Problem-Solving" grants would be available in fiscal year 2005.
- Information Sharing – EPA Martin County Slurry web site under development, data will be more readily accessible – web site up in a minimum of 6 weeks - an Information Repository was established in cooperation with the Mayor of Inez office in 2001 and EPA has been sending formal progress reports, etc. since then to the Repository -- EPA stated that, for the record, they donated a computer to the Inez Mayor's office in 2001 for the Repository and sharing information about activities related to the spill, such as cleanup and restoration.
- Additional testing – citizens suggested additional testing including possible combined impact assessment, drinking water organics, TIC.
- Community trust - EPA indicated it has tried to make information available to the public and answer questions - done all it can and EPA is not trying to hide anything. All documents available at repository and are open to comment. If these efforts do not satisfy community concerns, citizens also have recourse through citizen suits.

*Summary provided by:
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